

DEPARTMENT OF FOOD AND AGRICULTURE

Animal Health and Food Safety Services

INITIAL STATEMENT OF REASONS

SUBJECT MATTER OF PROPOSED REGULATION

Informal Hearings

SECTIONS AFFECTED

Sections 1310, 1310.1, 1310.2, 1310.3, and 1310.4

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL

Existing law, section 407 of the Food and Agricultural Code, provides that the Secretary may adopt such regulations as are reasonably necessary to carry out the provisions of this code which she is directed or authorized to administer or enforce.

Existing law, section 11400.20 of the Government Code, specifies that an agency may adopt permanent regulations to govern an adjudicative proceeding under the chapter [Chapter 4.5, Administrative Adjudications: General Provisions, sections 11400 – 11475.70].

Existing law, Food and Agricultural Code sections 9562 and 9570 authorize the State Veterinarian to quarantine animals and animal products if there is any serious threat to public health and safety, or to the safety of the State's food supply.

Existing regulations, sections 1301.2 and 1301.3 of Title 3 of the California Code of Regulations specify the informal hearing procedures for a person to contest a quarantine order issued by the State Veterinarian in accordance with Food and Agricultural Code section 9562.

For violations that do not result in the immediate quarantine order, the Department would serve a notice of a citation or letter of impending action [sometimes called a notice of adverse determination] against an individual who violated specified statutes and regulations pertaining to animals and/or animal products. Regulations currently exist in Title 3 of the California Code of Regulations, sections 1310 – 1310.3, which allow a person to appeal such adverse actions or determinations to the Department through an informal hearing process.

This regulatory proposal amends the Department's existing informal hearing regulations under Title 3, sections 1310 – 1310.3, to add and reorganize the statutes that may be utilized via the informal hearing process should a person be in violation of those statutes, and any regulations implementing those statutes, after an investigation and review of the evidence presented in the matter. This proposal also amends the time frames for a person to request an informal hearing from the Department, and adds new section 1310.4 to address enforcement matters that involve animals or animal products and time constraints involve the health and safety of live animals or perishable food products. This proposal also makes technical changes for consistency and clarity purposes.

The Department has evaluated this proposal and believes that it is not inconsistent or incompatible with existing State regulations. The Department may establish and implement, via regulation, informal hearing procedures in accordance with Chapter 4.5 (commencing with section 11400) of Part 1, Division 3, of Title 2 of the Government Code.

PROBLEM(S) INTENDED TO ADDRESS

Existing informal hearing regulations contain a partial listing of the Food and Agricultural Code sections pertaining to the authorities of the Animal Health and Food Safety Services Division, where the Department provides an opportunity for the immediate access to an internal, informal hearing process. This proposal reorganizes the statutes cited and provides for a general clean-up to update the statutes referenced that the Department may issue a notice of violation or adverse determination against an individual who may be found in violation of the statutes cited or any existing regulations adopted in Title 3 of the California Code of Regulations. It also updates procedures for the conduct of the informal hearings and includes a new section to address violations that involve the holding of animals or animal products where time is of the essence in adjudicating such matters.

The essential intent of the informal hearing process is to provide an opportunity for effective resolution of the issues, as specified, which can be carried out in an expeditious and cost effective manner, in the absence of rigid procedures which might unduly impede or protract the hearing process.

STATEMENT OF FACTUAL BASIS AND RATIONALE

The Department's Animal Health and Food Safety Services Division is comprised primarily of four branches that may utilize the informal hearing process under existing sections 1310 – 1310.3 of Title 3 of the California Code of Regulations. The State Veterinarian has authority and oversight over the Division. Any immediate threat to public health and safety will result in an immediate quarantine of animals and/or animal products in an effort to protect healthy animals and protect the purity of the State's food supply. The four branches of the Division are as follows:

- The Animal Health Branch is the State's organized, professional veterinary medical unit that protects livestock populations, consumers, and California's economy from catastrophic animal diseases and other health or agricultural problems. It addresses diseases and other problems that cannot be successfully controlled on an individual animal or herd basis, but require statewide coordinated resources. The Branch is responsible for deterring any activities that have the potential to compromise California's abundant food supply or the safety of public and animal health.
- The Bureau of Livestock Identification protects cattle owners against loss of animals by theft, straying or misappropriation. The branch has a brand registration program for cattle, horses, burros and sheep. They inspect cattle brands for lawful possession and proof of ownership prior to movement, sale, or slaughter, and recording of the information obtained by such inspections. They assist local law enforcement with investigations and prosecutions involving primarily cattle theft, as well as other livestock.
- The Meat, Poultry and Egg Safety Branch provides inspection services to slaughterhouses and processing plants that are exempt from federal inspection, but require inspection under California law. Branch inspectors ensure that only wholesome and properly labeled products are provided to consumers and ensure that meat and poultry products not

intended for human or pet consumption are prevented from entering food channels. The Branch also provides inspection in pet food slaughter and processing plants, monitors rendering companies, and conducts an industry-funded program to assure compliance with state regulations pertaining to inedible kitchen grease. The Branch inspects and monitors shell egg food safety and quality at production, wholesale, and retail levels to provide California consumers with eggs that are wholesome, properly labeled, refrigerated, and of established quality, while maintaining fair and equitable marketing standards in the California egg industry.

- The Milk and Dairy Food Safety Branch is charged with the mission and responsibility of ensuring that California's milk supply and milk products are safe and wholesome, and meet microbiological and compositional requirements consistent with state and federal laws and regulations. The Branch is the sole state authority with the expertise, experience, and training in dairy product processing and handling from farm to table, including milk pasteurization technology to ensure safe milk and milk products are provided to consumers.

The informal hearing process is utilized by the four branches of the Department's Animal Health and Food Safety Services Division for violations that do not result in an immediate quarantine of animals or animal products, and the Department issues what is commonly known as an adverse determination or a notice of violation against an individual. Hearing procedures for actions involving quarantine orders from the State Veterinarian are found in existing sections 1301.2 and 1301.3 of Title 3 of the California Code of Regulations.

For example, the Animal Health Branch may issue a notice of violation to a person not complying with California's livestock health entry requirements when transporting animals into the state. The illegal movement may be a violation and deserve a penalty, however the illegal movement may not be considered a serious disease risk and may not warrant a quarantine order by the State Veterinarian. In this scenario, after official actions are taken by the Department, the person to whom the action is directed is given the opportunity to contest the action and be heard, including the opportunity to present and rebut evidence without having to proceed through the lengthy and sometimes costly civil court system or the State's administrative hearing process.

The existing informal hearing regulations established uniform procedures satisfying the United States Constitution, the California Constitution, federal or state statutes or other forms of law that all persons are afforded. This proposal reorganizes the informal hearing regulations and extends its availability to additional authorities of the Department under the Food and Agricultural Code. The intent is to further satisfy due process and public policy requirements in a manner that is simple and more expeditious than hearing procedures that may otherwise be required. Some current laws or regulations do not consistently provide the due process and public policy requirements in a manner that is easily accessible and manageable.

The proposal is as follows:

Section 1310. Scope of Coverage.

Subsection (a) and (b). The Department is splitting existing subsection (a) and adding language in a new subsection (b) to clarify that the informal hearing proceedings pertain to a person who may be found in violation of the Food and Agricultural Code and any regulations adopted into Title 3 of the California Code of Regulations to implement, interpret or make specific the Code sections cited in subsections (a)(1) through (a)(21). The Department wanted to ensure the public was

aware that any violations of the applicable statutes and regulations may be adjudicated under the informal hearing process, when appropriate, depending upon the severity of the offense or if there are multiple or repeated offenses as determined depending upon the facts and evidence presented in each case.

Subsections (b)(1) and (2) contain no proposed changes at this time.

Amend subsection (b)(3) to clarify terminology, as the section pertains to movement permits for cattle pursuant to section 10610 of the Food and Agricultural Code. Movement permits are any type of document that is needed to track the animals within the state or moving or transporting livestock between states. They can be any type of health certificate, certificates of veterinary inspection, or any other type of document, such as vaccination reports or tests for certain disease conditions as may be required by the state or by the USDA. The purpose is to track cattle coming into the state to identify any infectious disease that could be harmful to the state's livestock or agriculture, and to disclose what types of treatment the animals may be receiving for a certain disease condition. Any person who violates the permit requirements could be subject to civil and administrative penalties. The Department believes that utilizing its internal, informal hearing process is a viable option to adjudicate matters in a timely and cost effective manner.

Amend subsection (b)(4) to clarify the terminology, as the section pertains to movement permits for swine pursuant to section 10721 of the Food and Agricultural Code. Movement permits are any type of document that is needed to track the animals within the state or moving or transporting livestock between states. They can be any of type health certificate, certificates of veterinary inspection, or any other type of document, such as vaccination reports or tests for certain disease conditions as may be required by the state or by the USDA. The purpose is to track swine coming into the state to ensure they do not have a contagious or infectious disease that could be harmful to the state's livestock or agriculture, and to disclose what types of treatment the animals may be receiving for a certain disease condition. Any person who violates the permit requirements could be subject to civil and administrative penalties. The Department believes that utilizing its internal, informal hearing process is a viable option to adjudicate matters in a timely and cost effective manner.

Delete former subsection (a)(5) relating to the approved processing or disposal of garbage aboard any vessel or aircraft in the state pursuant to sections 16101, 16151, 16152, 16153 and 16154 of the Food and Agricultural Code. These sections were included in the informal hearing regulation text, yet there are no enforcement mechanisms provided by statute.

Add new subsection (b)(5). The Department is including the option of utilizing the administrative informal hearing process for the imposition of civil penalties relating to the importation of cattle, horses or other Equidae, swine, and animals and animal products that pose or may pose significant threats to California agriculture under specified sections of Division 5 as stated in the regulation text. When livestock enter California, they are accompanied by certificates of veterinary inspection and other health certificates that may be required by the state or by the United States Department of Agriculture to ensure no contagious or infectious diseases cross state lines that could spread and be detrimental to agriculture. Persons that violate the animal importation requirements can be subject to administrative penalties as specified in statute. If a violation has occurred, the person charged shall receive notice of the nature of the violation, and shall be given an opportunity to be heard in accordance with Chapter 4.5 (commencing with section 11400) of Part 1 of Division 3 of Title 2 of the Government Code, except that informal hearing procedures may not be used under the circumstances described in subdivision (a) or (b) of section 11445.20

of the Government Code. The Department believes adding the civil penalty process to its informal hearing regulations is a viable option to adjudicate matters in a timely and cost effective manner.

Amend subsection (b)(6) to delete language that the section only pertains to the requirements for animals at large, pedigrees and proof of ownership and to clarify that the informal hearing process can be utilized for the imposition of civil penalties for violations of Division 9, Part 1 (commencing with section 16301) of the Food and Agricultural Code. Violations of specified sections in Part 1, Division 9, carry fines and penalties which can be handled through the administrative informal hearing process and in which a person may request a hearing on the matter. The Department believes it is reasonable for organizational purposes to cite Division 9, as violations of those sections of law can be handled expediently and in a cost effective manner, as determined by the Department depending upon the facts and evidence presented in each case.

Delete existing subsection (a)(7) regarding the transportation of animals as the statutes cited are now included in subsection (b)(6), as amended and described above. The Department is reorganizing the Codes cited for clarity and consistency throughout the informal hearing regulations.

New subsection designation (b)(7) and amended text regarding estray livestock to add sections 17068 and 17096 as additional Food and Agricultural Code sections that may be utilized for the Department's informal hearing procedures to ensure the public is aware of the Code sections that reasonably could be considered for the more expeditious and timely informal hearing process.

Renumber former subsection (a)(9) to read (b)(8) and contain no proposed changes to the text at this time.

Renumber former subsection (a)(10) to read (b)(9) and contain no proposed changes to existing text.

Add new subsection (b)(10) to include appeals submitted to the Department in accordance with the provisions of Food and Agricultural Code sections 19302, 19305.5 and 19447 for licensed renderers. Renderers are licensed by the Department and are persons who operate facilities to recycle animal carcasses, packinghouse waste and inedible kitchen grease into animal feed ingredients and inedible industrial fats, oils, and other products. The Department believes that any appeals for violations of statutes relating to rendering could be adjudicated using the informal hearing process which is a more expedient and timely process.

Subsection (b)(11) contain no proposed changes at this time.

Amend subsection (b)(12) to delete the cited statutes relating to violations for unrecorded, forfeited, or canceled brands. The subsection is amended to include all proceedings for the imposition of civil penalties for violations of Division 10 (commencing with section 20151) relating to cattle brand registration, inspection and enforcement. It is now broader in scope to reflect the portions of the Food and Agricultural Code where a violation may occur and the Department may utilize its informal hearing process.

Delete former subsections (a)(13), (14), (15), (16), (17), and (18) as the statutes cited are included in subsections (b)(12) as amended and described above relating to cattle. The Department is updating and reorganizing its informal hearing regulations for consistency and clarity purposes to ensure the public is aware how the process may be utilized by the Department.

Renumber former subsection (a)(19) to read (b)(13) and modify the text to specify that the Department may utilize the informal hearing process for the imposition of civil penalties for violations of Division 11 (commencing with section 23001), not solely for violations relating to the registration and enforcement of livestock brands. Division 11 pertains to a violation of laws regarding branding, and that any person who chooses to brand livestock or animals other than cattle, they are to comply with the same requirements for cattle branding, as specified. Division 11 also encompasses violations for the transport of sheep and the enforcement of the equine medication rules. Violations regarding transport pertain to health certificates and ensure any disease conditions are disclosed and managed by a veterinarian. The equine medication rules pertain to the allowable therapeutic drugs or medicines as prescribed by a veterinarian and to ensure no performance enhancing prohibited substance is administered to a horse in a public competition or sales event. The Department is reorganizing its informal hearing regulations to provide a broader scope, and ensure consistency and clarity throughout the regulations to ensure the public is aware of the sections of statutes where the informal hearing process may be utilized for cost effectiveness and expediency purposes.

Delete existing subsections (a)(20), (21), and (22) as the statutes cited are included in new subsection (b)(13) as amended and described above.

Amend former subsection (a)(23) to read (b)(14) - no changes to the text are proposed at this time.

Amend former subsection (a)(24) to read (b)(15) - no changes to the text are proposed at this time.

Add new subsection (b)(16) to include violations relating to the cost of dairy farm inspection services and milk products processing, manufacture or distribution facility inspections, as set forth in Division 15, Part 1, Chapter 4, Article 8 (commencing with section 33251) and Article 9 (commencing with section 33291). Fees are levied by the Department or to a milk inspection service for designated counties to inspect dairy farms and facilities. Any person engaged in the production of milk or milk products [e.g., producers; handlers] would be responsible for payment to the county or the Department of fees to cover the cost of the inspection services, as specified in statute. If a person violates any provisions of the statutes cited, they would be fined by the Department or the county where the violation(s) occurred. The proceedings may be handled through the informal hearing process as determined on a case by case basis depending upon the facts presented in the case. Such inspection services may include the facilities where milk and milk products are prepared for distribution, including the cleaning and sanitizing of equipment and bulk milk tankers used to transport milk from the dairy farm to the processing facility.

Add new subsection (b)(17) to include proceedings relating to Division 15, Part 1, Chapter 1 (commencing with section 34501) pertaining to milk and milk products container brand registration. The Department reviews and approved brand registrations and the containers for milk and milk products to ensure they meet both State and federal requirements for marketing milk in California. The labels are to provide consumers with information of the product and its composition and the containers must be approved for transporting milk or milk products and for marketing at retail locations to ensure the safety and wholesomeness of the product. Any violations of these sections of law could be handled via the informal hearing process as determined depending upon the facts and evidence presented in each case.

Add new subsection (b)(18) relating to proceedings on the usages of milk, the composition and labeling of dairy products, dairy beverages, products resembling milk products, and the

advertisement of such products, including the imposition of civil penalties as set forth in Division 15, Part 2 (commencing with section 35601) and Part 3 (commencing with section 36601). The Department must ensure that all milk products are safe and wholesome for human consumption and that they are properly labeled for the marketplace or for further processing. Any violations of these statutes may be handled through the informal hearing process as determined depending upon the facts and evidence presented in each case.

Add new subsection (b)(19) relating to proceedings regarding the usages of milk, the composition and labeling of dairy products, dairy beverages, products resembling milk products and the advertisement of such products, including the imposition of civil penalties. The Department believes this section is needed for clarity purposes to ensure that the public is aware that the Department may utilize the informal hearing process relating to any of the areas specified as may be determined depending upon the facts and evidence presented in each case.

Add new subsection (b)(20) relating to proceedings of the issuance of any license, registration, permit or certificate by the Department in absence of any procedure as specified in statute or regulation. The Department believes this section is needed for clarity purposes to ensure that the public is aware that the Department may utilize the informal hearing process relating to any of the areas specified as may be determined depending upon the facts and evidence presented in each case.

Authority and reference citations: The Department is also amending the authority and reference citations for the section pursuant to Government Code section 11349.1 and section 14 of Title 1 of the California Code of Regulations to conform the “Note” portion to the revised regulation text.

Section 1310.1. Filing Deadlines and Procedures.

Subsection (a) contains no proposed changes at this time.

Amend subsection (b) to change the time frame in which a respondent must submit a request to the Department for an informal hearing from within 30 to 20 days from the date of the notice of adverse determination. The Department is changing this time frame for consistency with Food and Agricultural Code section 27583.2 and section 1358.6 of Title 3 of the California Code of Regulations. The Department is also deleting the information relating to the holding of animals or animal products and moving it into new regulation section 1310.4 for clarity and organizational purposes.

Add new subsection (b)(1) to provide clarification that the filing deadline for a respondent to request an informal hearing does not apply to violations relating to fertilizing materials for which administrative penalties are levied pursuant to Food and Agricultural Code section 14651.5. That section of law provides that requests for hearings are to be filed within 30 days after the issuance of a notice of penalty. This subsection is to avoid confusion with a respondent relating to the request for an informal hearing from the Department.

Add new subsection (c) to provide information to a respondent that any requests made to the Department for an informal hearing, shall include a copy of the notice of adverse determination and shall state the grounds for the appeal. This is because, as stated in this subsection, the scope of the hearing shall be limited to only those causes, claims, and defenses specifically stated in the request for a hearing. The Department believes this information is necessary so a respondent will know that they cannot add information during the informal hearing that was not a part of the original request. This will ensure the proceedings are handled in an orderly and timely manner.

Re-letter former subsection (c) to read (d) and amend the text to clarify that unless a different proceeding is required by statute, a respondent may request a formal hearing. Any request for a formal hearing must clearly state that a formal hearing is requested, and that any time constraints on holding the hearing shall be waived since a formal hearing is held at the time and scheduling of an Administrative Law Judge through the Office of Administrative Hearings or other court as may be specified depending on the violation. The Department streamlined this subsection to make it easier for a respondent to have clear direction on requesting a formal hearing through the court system or an informal hearing from the Department.

Re-letter former subsection (d) to read (e) and amend the text for grammatical purposes by replacing the word “present” to “submit” in relation to a responding submitting a timely request for a hearing to the Department.

Delete former subsection (e) relating to the information relating to the holding of animals or animal products since that information is moved to new regulation section 1310.4 for clarity and organizational purposes.

Section 1310.2. Hearing Schedule and Notification.

Amend subsection (a) to change the time frame in which the Department will schedule an informal hearing from 30 to 45 days. The reason is to allow the Department more time for scheduling purposes, since the hearing calendar may become full and there is a need to obtain a hearing officer, schedule a hearing room, and so forth. The Department is also deleting information relating to the holding of animals or animal products since that information is moved to new regulation section 1310.4 for clarity and organizational purposes.

Subsection (b) contains no proposed changes at this time.

Amend subsection (c) to provide a time frame to the respondent in which the Department will notify the respondent of the scheduled informal hearing, which is ten days prior to the hearing. The Department believes this is sufficient time in which to notify the respondent that their hearing has been calendared and will include all information as specified in subsections (c)(1) – (3). Subsection (c)(4) is deleted in this proposal since no other information or documentation would be provided to a respondent relative to the adverse determination, so this subsection was deleted due to lack of necessity.

Add new subsections (d)(1) – (3) are needed to specify that the notice of hearing shall be sent by certified mail to either the address of the person charged, as provided by any license or registration they may have that is issued by the Department; the address of an agent for service of process for the person charged, as filed with the Secretary of State, or if the addresses as described in subsections (d)(1) or (d)(2) are not available, then the notice of hearing will be sent to the last known address of the person charged. The Department believes this information is necessary for clarity purposes, so a respondent will know they need to provide the Department with a valid address in which to send the notice of the informal hearing.

Add new subsection (e) to specify that a notice that is sent to any of the addresses described in subsection (d), that it shall be considered received, even if delivery is refused or if the notice is not accepted at that address. This section is needed to inform a respondent that the Department is not responsible for misdirected mail or mail that is refused at an address of record on file either with the Department, with the Secretary of State, or with an agent acting for the respondent.

Add new subsection (f) to specify that any documents to be considered by the hearing officer must be submitted to the Department's Hearing Office and received at least three business days prior to the hearing. This requirement is needed so that a respondent will know of the time frame for submitting any documentation relevant to the violation(s) that is to be considered during the informal hearing proceedings.

Add new subsection (g) to specify that for licensed renderers, in accordance with the provisions of Food and Agricultural Code sections 19302, 19305.5., and 19447, that this section shall only apply if oral argument is granted. This requirement is needed for clarity purposes and for consistency with the cited Code sections.

Section 1310.3. Conduct of Hearings.

Subsections (a) through (b)(1), (2) and (3) contain no proposed changes at this time.

Add new subsection (b)(4) to specify that the hearings may be tape recorded with either a transcript of the recording or a copy of the recording provided to any interested party upon request. This subsection is needed for clarity purposes so that a respondent, or any interested person, will know that the Department in some cases, will record the hearing, and that it is available to any interested party. In some cases, it may not be feasible to record each hearing or if there are technical or mechanical difficulties, yet the hearing will still take place and not be canceled or postponed due to recording issues.

Amend former subsection (b)(4) to read (b)(5) and delete the provision that decisions issued at the conclusion of the informal hearing may be handwritten. This option is not workable or feasible, and the respondent can expect a formal, printed decision.

Amend former subsection (b)(5) to read (b)(6) and change the time frame in which the Department shall issue its decision from 14 to 30 days. In practice, this requirement was difficult to meet, therefore, the Department needs more time in which to complete the decision and send it to the respondent. The Department is also deleting the provision that the decision may be issued orally at the conclusion of the hearing, subject to written confirmation. Again, in practice, this was not feasible, and the Department believes that in order to ensure accuracy and clarity, that it will only issue its formal decision to the respondent within 30 days from the day of the informal hearing.

Add subsection (b)(6)(A) to clarify that there may be a different time period for the Department to issue its written decision in an informal hearing for consistency with the provisions of sections 19302, 19305.5 and 19447 of the Food and Agricultural Code, which pertain to licensed renderers and registered transporters of inedible kitchen grease.

Renumber former subsection (a)(6) to read (a)(7) and delete the wording that a respondent may request their decision by facsimile transmission to state that they will be provided with the Department's decision in a method requested by the respondent.

Renumber former subsection (a)(7) to read (a)(8) to clarify that the hearing officer's decision shall be effective on service to the respondent, instead of upon first articulation which could result in confusion or a misunderstanding of the decision. So only a written decision is considered the final decision by the Department and when it would become effective.

Renumber former subsection (a)(8) to read (a)(9) to correct a wording and a Code citation error for clarity purposes.

Renumber former subsection (a)(9) to read (a)(10) with no changes to the text of that subsection.

Section 1310.4. Holding of Animals and Animal Products: Filing Deadlines.

Subsection (a) describes the intent of the section. This information was previously included in the prior sections of the informal hearing regulations and this new section is added to address the holding of animals and animal products. Any enforcement actions involving live animals must be adjudicated in a timely manner if the health of the animals may be a factor. The same with any perishable products, such as milk and dairy products, time is of the essence in enforcement matters or the products will need to be disposed of in a safe and sanitary manner.

Subsection (b) provides the deadline of 72 hours from the date of the notice of adverse determination for a respondent to request an appeal from the Department utilizing the informal hearing process. The Department believes the time frame is reasonable when a matter might involve the holding of live animals or perishable meat or dairy food products.

Subsection (c) provides clarity to a respondent to let them know if an adverse determination issued by the Department places a hold on a product or animal, that adverse determination shall remain in effect until the informal hearing can be held, and a decision rendering by the Department.

Subsection (d) provides the deadline for the Department to schedule an informal hearing under this section, which is within 72 hours after the receipt of the request. The Department believes the time frame is reasonable when a matter might involve the holding of live animals or perishable meat or dairy food products.

Authority and reference citations: The Department is adding the authority and reference citations for the section pursuant to Government Code section 11349.1 and section 14 of Title 1 of the California Code of Regulations.

TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT

None.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

This regulation does not mandate the use of specific technologies or equipment.

CONSIDERATION OF REASONABLE ALTERNATIVES

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Department would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. This proposal is necessary to reorganize and update existing informal hearing regulations in accordance with Food and Agricultural Code section 407 and section 11400.20 of the Government Code.

REASONABLE ALTERNATIVES THE DEPARTMENT HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESSES

The Department has not identified any reasonable alternatives to the proposed action and no adverse impacts to small businesses are expected as a result of this proposed action. This proposal is necessary to reorganize and update existing informal hearing regulations in accordance with Food and Agricultural Code section 407 and section 11400.20 of the Government Code.

BENEFITS OF THIS REGULATORY ACTION

This proposal benefits both the Department and the public. The purpose is to provide the informal hearing process to persons found to be in violation of specified provisions of the Food and Agricultural Code and any regulations that implement said Code. It would pertain to offenses that do not involve an immediate threat to public or animal health and safety and would not involve an immediate threat to the State's food supply. It is a way to adjudicate less egregious offenses in a timely and cost-effective manner.

FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS

No facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business have been identified.

DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS

This proposal does not duplicate or conflict with federal regulations. Federal violations would be addressed by the federal authorities responsible for enforcement. Such enforcement could be administrative, civil or criminal, depending upon the statutory authority of the program. Federal authorities would pursue such actions independent of the Department.

ECONOMIC IMPACT ASSESSMENT

Business Impact

- The Department has made an initial determination that the proposed regulatory action will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services.
- It will not create or eliminate jobs or occupations.
- The proposal does not affect the creation of new businesses or the elimination of existing businesses within the State of California, and does not affect the expansion of businesses currently doing business within the State of California.
- This proposal does not impact multiple industries.
- The proposal does not directly impact human health, worker safety, or the State's environment. This regulatory proposal will provide clarity to the public as to the statutes

that are included in the informal hearing process and any regulations implementing those statutes that would be reasonable to adjudicate in a timely and cost-effective manner which would benefit both the Department and the person who is contesting an adverse determination issued by the Department.

The above determinations are based on the fact this regulatory proposal only affects persons who are found, after investigation and the evidence presented, to be in violation of specified statutes and regulations relating to animal health and food safety. It pertains to the less egregious violations that do not involve an immediate threat to human or animal health and safety or food safety, and that can be adjudicated internally by the Department via its informal hearing process.

This proposal is necessary to reorganize and update existing informal hearing regulations in accordance with Food and Agricultural Code section 407 and section 11400.20 of the Government Code.

Economic Impact Assessment Conclusion

The Department has made an initial determination that the proposed regulatory action will not have any significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states by making it more costly to produce goods or services, and that it will not create or eliminate jobs or occupations. The proposal does not affect the creation of new businesses or the elimination of existing businesses within the State of California, and does not affect the expansion of businesses currently doing business within the State of California. The proposed regulation does not directly impact human health, worker safety, and the environment. It provides clarity to the public as to the statutes that are included in the informal hearing process and any regulations implementing those statutes that would be reasonable to adjudicate in a timely and cost-effective manner which would benefit both the Department and the person who is contesting an adverse determination issued by the Department. This proposal is necessary to reorganize and update existing informal hearing regulations in accordance with Food and Agricultural Code section 407 and section 11400.20 of the Government Code.